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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

LOREN STOUT & PIPER STOUT

09-CV-152-HA

Plaintiffs,

vs.

**UNITED STATES FOREST SERVICE,
BUREAU OF LAND MANAGEMENT,
and U.S. FISH AND WILDLIFE SERVICE**

**DEFENDANTS' MOTION FOR
EXTENSION OF TIME TO
RESPOND TO MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Defendants.

**Expedited Consideration & Ruling
Respectfully Requested**

Pursuant to Fed. R. Civ. P. 6(b) and LR 7.1, Defendants hereby respectfully move after the fact for a further one-day extension, until February 11, 2011, in the deadline for them to file a response to Plaintiffs' Motion for Partial Summary Judgment (Dkt. #33) in the above-captioned action. At the outset, undersigned counsel for Defendants wishes to apologize for the fact that he

did not file this motion for an extension earlier, and prior to the running of the current deadline, but he was preparing for and participating in his third oral argument of the week on Friday, February 11, 2011, and also was trying to make sure that he was able to file the papers on behalf of Defendants within just one day of the current deadline in light of the fact that the Court had declined to grant in full his earlier request for an extension (Dkt. #50). Nevertheless, he deeply regrets the delay in the filing of this motion and wishes to assure the Court that it does not signify that he takes the Court's filing deadlines lightly and that he expended diligent efforts to meet the current deadline, but was simply unable to do so. Undersigned counsel for Defendants is also mindful of the fact that the Court has entered an order requiring Defendants to show cause as to why they should not be sanctioned for their failure to meet the current deadline, to which they will respond as the Court directs by next Tuesday, February 15, 2011 (Dkt. #54). The primary reason that Federal Defendants are compelled to seek this final extension of one further day is because their undersigned counsel has been buried in other pressing work matters this week – as noted above, he participated in three oral arguments this week, and also has major substantive briefs due imminently in two other matters in which he is lead litigation counsel. Pursuant to LR 7.1, undersigned counsel for Defendants certifies that he has conferred with Plaintiffs' counsel on this motion and was informed that Plaintiffs were not able to articulate a position at this time.

The issue presented by this motion is whether the Court should grant a final one-day extension of the deadline for Defendants to file a response to Plaintiffs' Motion for Partial Summary Judgment, from February 10 to February 11, 2011. Federal Defendants respectfully submit that good cause exists for such an extension for the following primary reasons:

1. Defendants have filed their response to Plaintiffs' Motion for Partial Summary Judgment (Dkt. #56) and their own Cross-Motion for Summary Judgment (Dkt. #55) by the revised deadline this motion seeks, thereby assuring they will need no further extensions of it.

2. Undersigned counsel for Defendants has had an extraordinarily crammed schedule this week, with three oral arguments in which he participated, including one on Thursday and one on Friday, and substantive briefs due shortly in other matters in which he is lead litigation counsel, which precluded him, notwithstanding his diligent efforts, from meeting the current deadline. He nevertheless sincerely regrets and apologizes for not having filed this motion previously.

3. Granting the requested extension of one final additional day should not result in any meaningful prejudice to Plaintiffs in large measure because Federal Defendants are willing to further reduce their time to prepare and file a reply in support of their cross-motion for partial summary judgment by a commensurate amount; that is, they are willing to file such reply papers within 14 days after instead of the 17 days the Federal Rules and local rules otherwise would allow, see LR 7-1(e)(2) & Fed. R. Civ. P. 6(d), which will allow briefing on the parties' cross-motions for partial summary judgment to be concluded by the same date as under the present schedule. In addition, undersigned counsel intends to offer to cut Defendants' reply period by an additional week and agree to seek no more extensions of any filing deadlines in this case as a sanction for his failure to meet the current deadline and request this extension earlier, but he will address that issue in more detail in the brief the Court has ordered him to file by February 15.

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Respectfully submitted this 12th day of February 2011.

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